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**OFFICE OF PETITIONS**

In re Application of :  
Ellis :  
Application No. 10/622,267 :  
Filed: July 17, 2003 :  
Attorney Docket No. 36070.010 :  
:

ON PETITION

This is a decision on the renewed petition filed September 21, 2004, to accord the above-identified application a filing date of July 17, 2003.

On May 11, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings. A petition was filed on May 14, 2004. A decision dismissing the petition was mailed on September 13, 2004.

The present petition alleges drawings were deposited on July 17, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "2 sheets of drawings - 3 copies" on July 17, 2003.<sup>1</sup>

Upon review of the record, the drawings deposited on July 17, 2003, have not been located. However, the evidence is convincing that the application papers deposited on July 17, 2003, included drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of July 17, 2003.

In view of the above, the petition is **granted**. The copy of the drawings submitted on May 14, 2004, will be used for examination purposes.

The Notice mailed May 11, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application using a filing date of July 17, 2003, and using the application papers filed on July 17, 2003, and the copy of the drawings filed with the petition on May 14, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions

<sup>1</sup> Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.